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T-D

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/448,578	11/23/99	HUIGE	N 661005.90012
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IM52/0117

EXAMINER

SHERRER, C

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

01/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/448,578

Applicant(s)

Hulge et al

Examiner

Curtis E. Sherrer

Group Art Unit

1761

☒ Responsive to communication(s) filed on Oct 24, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-8 is/are pending in the application

Of the above, claim(s) 7 and 8 is/are withdrawn from consideration

☐ Claim(s) is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claims are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Part III DETAILED ACTION

Election/Restriction

1. Claims 7 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected products, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Dean et al. (U.S. Pat. No. 4,978,616).

5. Dean et al. teach a continuous bioreactor whereby yeast is propagated by being led through a membrane oxygenator, that can be made of silicone (col. 15, lines 5-23). Fig. 4 shows one of the preferred apparatus configurations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean et al. (U.S. Pat. No. 4,978,616) in view of Coutts (U.S. Pat. No. 6,149,949).

8. Dean et al. teach that cited above but does not teach the use of the oxygenated yeast in the production of beer. Coutts teaches the addition of "oxygenated yeast cells" to a beer fermentation tank (col. 4, lines 47-55).

9. Because Coutts is silent as to the addition of oxygen directly to fermentor, it is assumed that he does not. Nevertheless, it is notoriously well known in the brewing art to add oxygen in varying amounts to wort to aid in its fermentation and therefore it would have been obvious to those of ordinary skill in the art to add some amount of oxygen to fermentor for its art recognized benefits.

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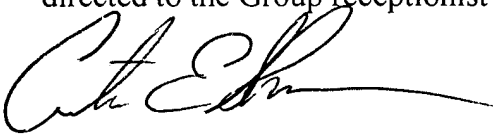
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Conclusion

10. No claim is allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30. The **fax phone number** for this Group is (703)-305-3602.

12. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Curtis E. Sherrer
Primary Examiner
January 10, 2001